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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,631	05/18/2004	Senichi Takagi	SHG-029P2	3630

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EXAMINER
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SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/709,631

Applicant(s)

TAKAGI ET AL.

Examiner

M. Safavi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on August 25, 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Information Disclosure Statement***

Applicant's remarks with respect to the IDS of August 16, 2004 have been noted. However, the date of March 11, 2003 referenced by Applicant does not appear as a publication date. Such date of March 11, 2003 appears as a date of completion of the search report if not a date of mailing of the search report.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 6, "both side edges" lacks an appropriate antecedent within the claim. Therefore, it is not clear as to what "both side edges" refers. Line 8, "the side surfaces" lacks an appropriate antecedent within the claim. Therefore, it is not clear as to what "the side surfaces" refers. Line 9, "said sheathing section side" lacks an appropriate antecedent within the claim. Therefore, it is not clear as to what "said sheathing section side" refers.

Claim 3, line 4, "the side surfaces" lacks an appropriate antecedent within the claim. Therefore, it is not clear as to what "the side surfaces" refers.

The language of claim 11 does not appear clear. Particularly, it is not understood as to what is being defined by "...wherein a portion of the space for conserving leaked

concrete is formed as a V-shaped groove when viewed in cross-section and acts as a guiding groove for a tip of a drill used when forming an insertion hole for inserting a separator." Does the V-shaped groove form part of the claimed form panel? Or, is the V-shaped groove formed only when a plurality of form panels are aligned one with another? If the V-shaped groove is formed only when a plurality of form panels are aligned one with another the claim language is not clear as to whether the V-shaped groove is formed before assembly or after assembly. In other words the language of claim 11 does not serve to further limit the language of claim 3 as by positively adding a feature of the claimed form panel?

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 4-8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers et al. '439 in view of either of Japanese reference JP11-182029 and Japanese reference JP9-151602.**

Myers et al. '439 discloses, Figs. 1 and 3, a form panel for placing concrete having one side 14 of which forms a concrete placing surface, and side panel sections 16 bent out at right angles from both side edges of said sheathing section on an opposite side of said sheathing section to said concrete placing surface, wherein at

least one projecting section 20, 23 which extends in a vertical direction is provided on an outside surface of at least one of said side panel sections, and one of the sides of one of said projecting sections 20 is coplanar with said concrete placing surface 14 of said sheathing section. Myers et al. discloses more than one of said projecting sections as at or along 23 and 20, (**claim 1**). Notches 60 orthogonal to the longitudinal direction of said projecting sections are formed in the same position in each of said projecting sections, (**claim 7**). A hollow reinforcing panel section 34 which is parallel to said side panel section is provided on a rear surface of said concrete placing surface of said sheathing section, (**claim 8**). Myers et al. does not appear to specifically disclose forming the form panel of a "plastic" material with a hollow sheathing portion and hollow side panel sections.

However, each of Japanese reference JP11-182029 and Japanese reference JP9-151602 teach utilization of form panels having a hollow sheathing portion and hollow side panel sections, 3 and 4 of 2 in Fig. 10 of JP '602 and 1 in Fig. 4 of JP '029 with each of JP '602 and JP '029 teaching "plastic" form panels.

Therefore, to have formed the Myers et al. form panel of a plastic material with a hollow sheathing portion 12/14 and hollow side panel sections 16, thus providing a sturdy form panel which may be resistant to weathering or corrosive action, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by either of Japanese reference JP11-182029 and Japanese reference JP9-151602. With such a modification two hollow projecting sections, (as the extensions along 20 and 23), would be formed. As for **claim 5**, Japanese reference JP9-151602

also teaches, as can be seen in Fig. 10, application of a diagonal rib which is diagonal relative to said concrete placing surface and formed within said projecting section, and in contact with an inside of a corner section on said concrete placing surface side, (such diagonal rib can be seen in Fig. 10 extending in the forward projecting section formed flush with the "concrete placing surface". With the above modification, the Myers et al. form panel would possess projecting sections made of a soft resin or a semi hard resin, (claim 6), with said sheathing section and said side panel section being formed by integrating two panels and a plurality of long reinforcing ribs connecting these panels, (claim 4).

**Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers et al. '439 in view of either of Japanese reference JP11-182029 and Japanese reference JP9-151602 as applied to claims 1, 4-8, 10, and 11 above, and further in view of Matsumoto et al. '366.**

Matsumoto et al. teaches utilization of a transparent or semi-transparent form panel. Therefore, to have formed the modified Myers et al. form panel of a transparent or semi-transparent material, thus allowing inspection of the forming process, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Matsumoto et al.

**Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers et al. '439 in view of either of Japanese reference JP11-182029 and**

**Japanese reference JP9-151602 as applied to claims 1, 4-8, 10, and 11 above, and further in view of either of Imonetti '046 and Adonetti '873.**

Each of Imonetti '046 and Adonetti '873 disclose utilization of form panels with side panel sections having two projecting sections which extend in a vertical direction provided on an outside surface of at least one of said side panel sections, with one of the sides of one of said projecting sections being coplanar with said concrete placing surface of said sheathing section, and the side of the other projecting section which faces said first projecting section being inclined, coplanar 30 and inclined 32 of Imonetti '046 and coplanar outer side of 44 and inclined side of inner projection of 24, 44 in Fig. 3 of Adonetti '873. Therefore, to have formed the inner projecting section of the modified Myers et al. side panel sections with an inclined wall facing the outer projecting section, thus adding strength and sturdiness to the "side panel section"/"hollow projecting section" interface, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by either of Imonetti '046 and Adonetti '873.

### ***Response to Arguments***

Applicant's arguments filed August 25, 2006 have been fully considered but they are not persuasive. For example, and as for Applicant's remark that the "hollow projecting sections, for example, allow Applicants' form panel to conserve leaked concrete when the projection sections are in abutting contact with two other hollow projecting sections of an adjacent form panel", Myers et al. '439 can allow for such conservation of leaked concrete as with a spacing between the opposing surfaces of 22.

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And, each of JP '029 and JP '602 has been utilized to teach formation of a plastic hollow form panel. As such, the combination of Myers et al. '439 and either of JP '029 and JP '602 teach formation of a form panel of a plastic material with a hollow sheathing portion and hollow side panel sections with the resulting Myers et al. side panel sections each possessing two "hollow projecting sections" as along the 20 and 23 portions of the side panel section 16.

As for Applicant's argument with respect to each of claims 3 and 9, each of Matsumoto et al. '366, Imonetti '046, and Adonetti '873 are directed to form panels and are thus analogous to Myers et al. The motivation to combine having been appropriately set forth within the respective rejections of claims 3 and 9.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



**MICHAEL SAFAVI  
PRIMARY EXAMINER  
ART UNIT 354**

M. Safavi  
November 10, 2006